



Final Regulation Agency Background Document

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| Agency name | Department of Medical Assistance Services |
| Virginia Administrative Code (VAC) citation | 12 VAC 30-50 and 12 VAC 30-120 |
| Regulation title | Amount, Duration and Scope of Services, and Waivered Services |
| Action title | Individuals and Families with Developmental Disabilities Waiver |
| Document preparation date | |

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Prior to the scheduled expiration of the Individual and Family Developmental Disabilities Support (IFDDS) Waiver on July 1, 2003, DMAS formed an IFDDS Waiver Task Force, consisting of a diverse group of stakeholders (waiver recipients, family members/caregivers of individuals with disabilities, advocates, providers and state representatives) to assist the Agency in revising the Waiver for renewal. The IFDDS Waiver Task Force recommended changes to the waiver based on experience with the program from July 2000 through June 2003. The waiver application submitted to CMS reflected the efforts of DMAS through recommendations of the IFDDS Waiver Task Force to revise the waiver to better meet the needs of individuals receiving services through the waiver. These proposed regulations reflect the substantial revisions in the CMS-approved IFDDS Waiver.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background Document with the attached regulations 12 VAC 30-50-490 and 12 VAC 30-120-700 through 12 VAC 30-120-790, and adopt the action, Waivered Services: Individuals and Families with Developmental Disabilities Waiver, stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act and is full, true, and correctly dated.

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services, and § 1915 (c) of the *Social Security Act* provides for home and community based waiver programs such as the Individuals and Families with Developmental Disabilities Waiver.

This regulatory action is the final stage of the regulatory process for these changes. Mandates in the 2004 and 2005 Virginia Appropriations Acts (Item 326 W in each) that “Contingent upon approval by the Centers for Medicare and Medicaid Services [CMS] to implement the renewal of the Individual and Family Developmental Disabilities Support Waiver as developed by the Department and stakeholders, the Department of Medical Assistance Services shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.” The Department implemented the necessary regulatory changes in the emergency regulatory package to be consistent with federal approval of the waiver application renewal. CMS approved the renewal of the IFDDS Waiver in February 2004. The approval included suggested changes to the waiver that are included in this final regulatory package.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of these final regulations is fivefold: 1) to provide clarity and guidance to providers and other stakeholders; 2) to conform to the IFDDS Waiver renewal application as approved by CMS in February of 2004; 3) to comply with Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) and Department of Social Services (DSS) provider licensing standards; 4) to follow recommendations made by the Office of the Attorney General; and 5) to support individual choice. This action enhances individual choice for citizens of the Commonwealth with developmental disabilities; by enhancing choice of care options this package helps ensure the health and welfare of these citizens.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The IFDDS Waiver regulations were revised: 1) to provide clarity and guidance to providers and other stakeholders; 2) to conform to the IFDDS Waiver renewal application as approved by CMS in February of 2004; 3) to comply with Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) and Department of Social Services (DSS) provider licensing standards; 4) to follow recommendations made by the Office of the Attorney General; and 5) to support individual choice. Throughout this document there are several references made to regulation language changes made "to be consistent with the Mental Retardation (MR) Waiver." In most cases this is a reference to changing language to conform it to MR Waiver language concerning the same issue in both waivers. In other cases changes were made to conform IFDDS procedures to match the same process already being carried out in the MR Waiver. All these conforming changes were approved by the Task Force.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage of these proposed regulations is that they allow individuals with developmental disabilities to live as independently as possible in the community by providing to individuals services in their homes and communities rather than in an institution. These final changes seek to improve the operations of the program by providing further clarification on available services and the necessary requirements to provide for the health, safety, and welfare of the individuals receiving services. There are no known disadvantages of these regulations to the agency, public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

DMAS made changes described below based upon both public comment and the Agency’s desire to align particular services that are similar in other waivers. The following changes are being made in the final regulation.

Public comment

Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.

DMAS’ proposed regulations were published in the July 24, 2006 (VR 22:23) *Virginia Register* for their comment period from July 24, 2006 through September 22, 2006. Public comments were as follows:

DMAS Response: Concerning

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 12VAC30-50-490 | | Targeted Case Management for individuals with developmental disabilities, including autism | <p>(1) This section was revised to change “support coordination” to “case management,” to reflect targeted case management provider requirements as specified in 12VAC30-50-450, and to reflect current federally approved provider requirements in the IFDDS Waiver application.</p> <p>(2) The following changes were made in the proposed permanent regulation:</p> |

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| | | | <p>1. Clarified that the term “application” refers to the waiver application.</p> <p>2. Clarified that case managers may conduct the assessments needed for consumer-directed services if the individual chooses even if the case manager is not the service facilitation provider.</p> |
| 12VAC30-120-700 through 12VAC30-120-800 | | All IFDDS Waiver Services | <p>(1)The following changes were made throughout these regulations to be consistent with the current federally approved waiver application and for clarity:</p> <p>1) The word “recipient” was changed to “individual” and “consumer service plan” was changed to “plan of care.”</p> <p>2) “Attendant care” was changed to “Consumer-directed personal care” and “support coordinator” was changed to “case manager.”</p> <p>3) “Developmental disabilities” was changed to “related conditions.”</p> <p>4) Emphasis was placed on person-centered planning and process.</p> |
| 12VAC30-120-700 | | Definitions | <p>(1) Definitions were added and revised to provide stakeholders with greater clarity and guidance when reading these regulations. The following definitions were added:</p> <ol style="list-style-type: none"> 1. appeal 2. case management (replaces support coordination) 3. CMS (replaces HCFA) 4. consumer-directed employee (replaces personal attendant) 5. consumer directed services (replaces attendant care, consumer-directed companion care and consumer-directed respite care) 6. direct marketing 7. entrepreneurial model 8. face to face visit 9. ICF/MR 10. IFDDS screening team (replaces screening team) 11. pend |

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| | | | <ul style="list-style-type: none"> 12. plan of care (replaces consumer service plan or CSP) 13. preauthorized 14. qualified developmental disabilities professional 15. skilled nursing services (replaces nursing services) 16. slot. <p>(2) The following changes were made in the proposed permanent regulation:</p> <ul style="list-style-type: none"> 1. The “or” that was removed from the definition of assistive technology was reinserted. 2. The Code of Virginia (COV) reference in the definitions of Behavioral Health Authority and Community Services Board was updated as this title is being repealed and replaced effective 10/1/05. 3. The definition of companion was revised to provide clarification that all types of hands-on care not just nursing care is prohibited by this service. 4. A definition for “enroll” was added. 5. The definition of “face to face visit” was revised. 6. Corrected Virginia Administrative Code citation under the definition of Personal Care Services. 7. Added reference to Drug Control Act to the definition of skilled nursing services. 8. A definition for “specialized supervision” was added. |
| <p>12VAC30-120-710</p> | | <p>General coverage and requirements for all home and community-based care waiver services</p> | <p>(1) The following changes were made in accordance with the current federally approved waiver application and to provide greater clarity and guidance:</p> <ul style="list-style-type: none"> 1. Amended the covered services section to include pre-vocational services and clarified skilled nursing and consumer-directed services. 2. Added eligibility criteria for emergency access to services. <p>(2) The following changes was made in the proposed permanent regulation:</p> <ul style="list-style-type: none"> 1. Language was added outlining the emergency slot allocation process. |

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| 12VAC30-120-790 | 12VAC30-120-710.D | Eligibility criteria for emergency access to the waiver | (1) This section was moved at the request of stakeholders who found it difficult to locate this regulatory section. |
| 12VAC30-120-720.A | | Individual qualifications and eligibility requirements; intake process | (1) Inserted additional earned income disregard language to reflect the eligibility requirements in the IFDDS Waiver application. |
| 12VAC30-120-720.B through E | | Assessment and Authorization of home and community-based services | <p>(1) The following changes were made to provide greater clarity and guidance:</p> <ol style="list-style-type: none"> 1. Inserted language requiring the IFDDS Screening team to obtain psychological evaluations of individuals being screened for the IFDDS Waiver and clarified that IFDDS Screening teams must refer individuals for services based on the individual's choice of institutional or home and community-based services. 2. Revised language to reflect DSS licensing terminology. 3. Revised the VAC citation from 12VAC30-120-790 to 12VAC30-120-710 because the emergency criteria was moved to 12VAC30-120-710. 4. Struck citation to 12VAC30-120-710 for definition of mental retardation; --710 no longer spells out definition, but simply refers to mental retardation as defined by the American Association on Mental Retardation. 5. Added language to clarify the percentage of available waiver funding used for emergency situations and described the process for allocating emergency slots to institutionalized individuals. These percentages reflect a 5 percent increase in slots allocated for emergencies and a subsequent 5 percent reduction in slots allocated for budget level one. The process of converting level one slots to emergency slots in order to reach the specified percentages is defined. 6. Specific timeframes were added for the Screening Team to ensure timely review of, and decisions on, waiver applications. |

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| | | | <p>7. Adds requirement for face-to-face meeting between case manager and individual or caregivers.</p> <p>8. Adds requirement that case manager submits the DMAS 122 form to local DSS.</p> <p>9. Adds description of process for requesting a 30-day extension for initiation of waiver services.</p> <p>(2) The following changes were made in the proposed permanent regulations at the suggestion of individuals and organizations that commented on the emergency regulations:</p> <p>1. The entire section was reorganized to present material chronologically at the request of stakeholders who found this section difficult to follow.</p> <p>2. Clarified that children who transfer into the IFDDS Waiver at age six must be receiving MR Waiver services and clarified the role of the MR case manager at the suggestion of VOPA. Also clarified that these children must transfer prior to their seventh birthday.</p> <p>3. Clarified that individuals may receive case management from DMAS if the actual cost of waiver services exceeds the average annual cost of ICF/MR care for an individual.</p> <p>4. Clarified that individuals residing in an institution who are eligible to receive an emergency slot must be ready to transition into the community within 60 days of receiving the slot.</p> <p>5. The use of the term “authorization” was changed to apply only to references to prior authorization of services.</p> <p>6. Additional language was added to clarify the enrollment process.</p> <p>7. Clarified that only DMAS shall conduct annual level of care reviews.</p> |
| 12VAC30- | 12VAC30- | Authorization of home and | (1) Relocated the reevaluation of service |

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| 120-780 | 120-720.F | community-based services | <p>need and utilization review section from 30-120-780 to 30-120-720(F) per taskforce recommendation. Provider documentation requirements were expanded in this section to inform providers of these expectations.</p> <p>(2) The following change were made in the proposed permanent regulation:</p> <ol style="list-style-type: none"> 1. Changed the time period that providers are responsible for maintaining records from five to six years to be consistent with HIPAA requirements. |
| 12VAC30-120-730 | | General requirements for home and community-based participating providers | <ol style="list-style-type: none"> (1) 1. Clarified to providers that while individuals have freedom of choice to reject medical care, treatment and services, potential adverse outcomes of refusing care should be discussed with the individual and documented. 2. Clarified language regarding the date that services may be billed by providers. 3. Clarified language to identify specific confidentiality requirements. 4. Revised language to be consistent with DMHMRSAS licensing requirements for DMHMRSAS licensed providers. 5. Added a provision that prohibits providers from conducting direct marketing activities to waiver participants or their families to ensure individual choice. |
| 12VAC30-120-740 | | Participation standards for home and community-based waiver participating providers | <ol style="list-style-type: none"> (1) 1. Revised language to ensure provider documentation meets state and federal requirements as directed by the OAG. 2. Revised language to provide more clarity for IFDDS Waiver providers and stakeholders about individual choice of waiver service providers and the importance of involving the individual or family/caregiver with changes to the plan of care. 3. Revised language regarding termination of provider participation by |

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| | | | <p>DMAS to provide greater clarity to providers.</p> <p>4. Added selection of new case manager by individual to the list of circumstances for which case manager must notify DMAS and DSS.</p> <p>5. Added language to clarify that DMAS will notify the individual or his family/caregiver of the right to appeal an adverse decision by DMAS. This language provides greater clarity to providers and other stakeholders.</p> <p>6. Clarified that DMHMRSAS must also be notified as required during emergency termination of services to be consistent with the MR Waiver.</p> <p>7. Provided greater clarity to stakeholders by inserting language that requires case managers to notify DMAS in the event an individual no longer meets level of care criteria for the IFDDS Waiver.</p> <p>(2) In the proposed permanent regulations, revised language regarding provider appeals to make the IFFDS Waiver regulations consistent with DMAS appeal regulations.</p> |
| <p>12VAC30-120-750</p> | | <p>In-home residential support services</p> | <p>(1) 1. Language regarding specialized supervision was added to be consistent with the current IFDDS waiver application.</p> <p>2. A written behavioral program requirement and a supervision requirement was added to conform to DMHMRSAS licensing standards.</p> <p>3. Language regarding direct care staff was added throughout the regulation to provide clarification to providers.</p> <p>(2) The following change was made in the proposed permanent regulation at the suggestion of individuals and organizations that commented on the emergency regulation:</p> <p>1. Clarified the restriction on receiving this service simultaneously with personal and respite care at the request of stakeholders.</p> |

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| <p>12VAC30-120-752</p> | | <p>Day Support Services</p> | <p>(1) 1. Added language in the service description to provide clarification to providers.</p> <p>2. Revised criteria to allow individuals to receive both Day Support and Supported Employment Services.</p> <p>3. Revised language regarding criteria for day support at the intensive level to be consistent with the MR Waiver and provide additional clarification to providers.</p> <p>4. Removed language regarding prevocational services to reflect change in the current IFDDS Waiver application which lists prevocational services as a separate service and not a component of day support. Prevocational services are addressed in 12VAC30-120-753.</p> <p>5. Added language under service units and service limitations to provide clarification to providers.</p> <p>6. Added requirement that revisions to supporting documentation be reviewed with the individual or his caregiver.</p> <p>7. Added language under provider requirements to reflect changes in Medicaid reimbursed transportation, to make the regulation consistent with DMHMRSAS licensing requirements and to provide clarification to providers.</p> <p>8. Added requirements that providers document efforts to obtain DMAS 122s and that supervision of direct service staff be by a qualified developmental disability professional.</p> |
| <p>12VAC30-120-753</p> | | <p>Reserved</p> | <p>(1) Added section on prevocational services based on CMS requirements to list prevocational services as a separate component from Day Support.</p> <p>(2) Clarified the limitation in the proposed permanent regulation related to other available services at the request of stakeholders.</p> |
| <p>12VAC30-</p> | | <p>Supported Employment</p> | <p>(1) 1. Added language to clarify service</p> |

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| 120-754 | | Services | <p>units and limitations for providers.</p> <p>2. Added language to reflect changes in Medicaid reimbursed transportation.</p> <p>3. Clarified provider documentation requirements regarding time spent in services, annual reviews and modifications to supporting documentation, transportation, and the DMAS-122.</p> <p>(2) The following changes were made in the proposed permanent regulations:</p> <p>A) Removed a statement regarding transportation as transportation broker provides all nonemergency transportation.</p> <p>B) Clarified the limitation in the proposed permanent regulation related to other available services at the request of stakeholders.</p> |
| 12VAC30-120-756 | | Therapeutic Consultation | <p>(1) 1. Revised language under the service description to be consistent with the current IFDDS Waiver Application.</p> <p>2. Added language regarding monitoring activities under the criteria section to be consistent with the current IFDDS Waiver Application.</p> <p>3. Added language to clarify service limitations and provider requirements to providers.</p> |
| 12VAC30-120-758 | | Environmental Modifications | <p>(1) 1. Language was added to the service description and criteria sections to provide clarification to individuals and providers on covered modifications.</p> <p>2. Language regarding excluded modifications was added to the service units and service limitations section to make the regulation consistent with the current IFDDS Waiver application.</p> <p>3. Language regarding the role of the case manager was added to the service units and service limitations section to address issues of quality assurance.</p> <p>4. A restriction was added which prohibits providers from providing services to their</p> |

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| | | | spouse or child. |
| 12VAC30-120-760 | | Skilled Nursing Services | <p>(1) 1. Clarified that consultation and training to other providers is covered under this service.</p> <p>2. Revised language under the provider requirements section to provide clarification on entities qualified to provide this service.</p> <p>(2) Clarified in the proposed permanent regulation that services must be explicitly detailed in the CSP and must be specifically ordered by a physician.</p> |
| 12VAC30-120-762 | | Assistive Technology | <p>(1) 1. Added language to the service description to make the regulation consistent with the current IFDDS waiver application.</p> <p>2. Added language in the criteria and service units and service limitations sections to provide clarification to individuals and providers.</p> <p>3. Two restrictions were added to the provider requirements section due to the potential conflict of interest:</p> <ul style="list-style-type: none"> a. Providers may not also write the necessary professional consultation for individuals to receive the service. b. Providers may not provide services to their spouse or child. |
| 12VAC30-120-764 | | Crisis Stabilization Services | <p>(1) 1. Added language to the service description section to provide clarification to providers and to make the regulation consistent with the current IFDDS Waiver application.</p> <p>2. The professional required to conduct the assessment for this service was specified as a qualified developmental disabilities professional to make the regulation consistent with DMHMRSAS licensing requirements.</p> <p>3. The language regarding the crisis supervision component was revised to</p> |

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| | | | <p>specify that supervision be face-to-face- and one-on-one, and to make the regulation consistent with the MR Waiver.</p> <p>4. A statement specifying that assessments be conducted jointly with other appropriate professionals was added to the service units and service limitations section to make the regulation consistent with the MR Waiver.</p> <p>5. Added language regarding supervision requirements in the provider requirements section to make the regulation consistent with the current IFDDS Waiver application.</p> <p>6. Added language regarding documentation requirements in the provider requirements section to provide clarification to providers and to make the regulation consistent with the MR Waiver.</p> |
| <p>12VAC30-120-766</p> | | <p>Personal Care Services</p> | <p>(1) 1. Language was added to the service description to make the regulation consistent with the current IFDDS Waiver Application.</p> <p>2. Language was added to the criteria and service units and service limitations sections to provide clarification to providers.</p> <p>3. Language was revised in the provider requirements section to: clarify supervision required by DMHMRSAS licensed providers; further clarify the roles of the supervisor; clarify training requirements for personal care aides; clarify restrictions related to family members providing care; clarify the responsibilities of an agency transferring a case; and, to address issues of quality assurance.</p> <p>4. The requirement that all DMAS utilization review forms be kept in the individual's record was removed from the provider requirements section, as it is not expected that the provider will have information related to a utilization review in individual charts. A duplicative statement requiring reassessments to be located in the individual's charts was also removed from this section because this requirement is already addressed in the</p> |

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| | | | <p>section.</p> <p>(2) The following changes were made in the proposed permanent regulation:</p> <ol style="list-style-type: none"> 1. Combined information on Respite Care Services with this section as many of the provider requirements are similar. 2. Revised section to include both agency-directed and consumer-directed options for these services. Information on personal care and respite services provided through the consumer-directed option was moved from 12 VAC 30-120-770 into this section. 3. Updated COV reference in section D.7.f(1) as this title is being replaced effective 10/1/05. 4. Removed requirement that consumer-directed employees receive annual CPR training and flu shots to be consistent with the requirements for aides working under the agency-directed model. 5. Removed detail on process for obtaining an aide from another agency as this is procedural and included in the manual. |
| <p>12VAC30-120-768</p> | | <p>Respite Care Services</p> | <ol style="list-style-type: none"> (1) 1. A documentation requirement regarding special tasks performed by aides was added to be consistent with the MR Waiver. 2. Addition of requirement that respite care aides be able to read/write English to the extent necessary to accomplish the tasks associated with respite care services. 3. The responsibility of the agency to ensure that services continue was removed to reflect current practice; also, LPNs are no longer authorized to provide supervision of respite care aides. 4. The requirement that all DMAS utilization review forms be kept in the individual's record was removed from the provider requirements section as it is not expected that the provider will have |

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| | | | <p>information related to a utilization review in individual charts. A duplicative statement requiring reassessments to be located in the individual's charts was also removed from this section because this requirement is already addressed in this section.</p> <p>(2) In the proposed permanent regulation, information contained in this section was combined with information on personal care services located in 12VAC30-120-766 as these services have similar requirements. This section was deleted and the information moved to 12VAC30-120-766.</p> |
| <p>12VAC30-120-770</p> | | <p>Consumer-Directed Services</p> | <p>(1) 1. Added language to the service definition and criteria sections to provide clarification to providers and to be consistent with the current IFDDS Waiver application.</p> <p>2. Added language to the service units and service limitations section to reflect changing role of service facilitator consistent with the current IFFDDS Waiver application.</p> <p>3. Removed requirement that an attendant be willing to be listed in a personal attendant registry in response to concerns expressed by IFDDS Waiver task force that individuals may lose attendants who do not wish to be listed in the registry.</p> <p>4. Clarified role and duties of service facilitator in provider qualifications section to make consistent with current IFDDS Waiver application. The responsibility of doing assessments, reassessments, and developing and monitoring plans has been shifted to case managers at the request of the stakeholders.</p> <p>5. Removed RN consultation requirement and clarified that these services may be obtained through the individual's physician's office.</p> <p>6. Removed documentation requirements that relate to change in role of service facilitator and also removed requirement for DMAS utilization review forms as it is</p> |

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| | | | <p>not expected for providers to have these forms in individual charts.</p> <p>(2) The following changes were made in the proposed permanent regulation to provide providers and stakeholders with greater clarity:</p> <ol style="list-style-type: none"> 1. Revised the section to include only general information on the consumer-directed model of services and service facilitation provider requirements. 2. Clarified that services facilitators may continue to conduct assessments and reassessments needed for CD services and the provider qualifications necessary for those facilitators who conduct these assessments. 3. Specific information on companion services provided through the consumer-directed model was moved to 12VAC30-120-776. 4. Specific information on personal assistance and respite services provided through the consumer-directed model was moved to 12VAC30-120-766. 5. Clarified that services will discontinue if the individual is without service facilitation services for more than sixty consecutive days. 6. Added language to provide further clarification on service facilitation visits. 7. Further clarified that the extent that the services facilitator must be available to the individual or family/caregiver. 8. The language regarding services facilitators verifying timesheets for employees convicted of specified crimes was eliminated as this prohibition is described in 12VAC30-120-776 and 12VAC30-120-766. |
| <p>12VAC30-120-772</p> | | <p>Family/Caregiver Training</p> | <p>(1) Expanded the listing in this regulation of providers who may provide family/caregiver training.</p> <p>(2) In the proposed permanent regulation,</p> |

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| | | | revised the definition to be consistent with the waiver application and revised language regarding provider agencies to include qualified staff of all agencies eligible to be a provider. |
| 12VAC30-120-774 | | Personal Emergency Response System (PERS) | <p>(1) The following changes were made to provide clarification to providers and to be consistent with the MR Waiver:</p> <ol style="list-style-type: none"> 1. A statement was added to the service description to include medication monitoring devices. 2. The exclusions related to individuals with caregivers who operate a home business were removed. 3. Added a 30-day limit to requirement for written report following any action in response to an emergency signal. 4. A prohibition against direct marketing by a PERS provider was added. <p>(2) Clarified in the proposed permanent regulation that individuals receiving PERS services must be able to safely spend periods of time alone and be at least fourteen years of age.</p> <p>(3) Stated that PERS cannot be used as a substitute for providing adequate supervision of the individual.</p> |
| 12VAC30-120-776 | | Companion services agency-directed model of care | <p>(1) The following information was added to provide clarification to providers and to make the regulation consistent with the MR Waiver regulation:</p> <ol style="list-style-type: none"> 1. A list of appropriate providers. 2. Restrictions regarding family members providing services. 3. Provider requirements. 4. Documentation requirements. <p>(2) In the proposed permanent regulation:</p> <p>A) Revised section to include both agency-directed and consumer-directed options for this service. Information on companion services provided through the</p> |

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| | | | <p>consumer-directed option was moved from 12 VAC 30-120-770 into this section.</p> <p>B) Removed requirement that consumer-directed employees receive annual CPR training and flu shots to be consistent with the requirements for aides working under the agency-directed model.</p> |
| 12VAC30-120-780 | 12VAC30-120-720.F | Reevaluation of service needs and utilization review | (1) This section was moved for reading ease at the request of stakeholders who found it difficult to locate this regulatory section. |
| 12VAC30-120-790 | 12VAC30-120-710.C and D | Eligibility criteria for emergency access to the waiver | (1) This section was moved for reading ease at the request of stakeholders who found it difficult to locate this regulatory section. |

Changes subsequent to the emergency regulation: In the proposed regulation text DMAS made changes subsequent to the publication of the emergency regulations. Throughout the text all references concerning individuals providing services facilitation services were made consistent with the use of the term “CD services facilitator.” Multiple grammatical and/or spelling errors were also corrected in the text. Finally, in 12 VAC 30-120-770(B)(7)(4)(b)(5), DMAS changed the requirement that a CD services facilitator must submit a criminal record check within 10 days of employment to within 15 days of employment, in order to make this requirement consistent with the deadline for criminal records checks in other waiver programs. The change to a 15 day deadline in other waiver programs is being made in response to public comment, and DMAS is applying that same position here.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents. It does not strengthen or erode the marital commitment, but may increase disposable family income by providing services often paid for by families. The MR Day Support Waiver will have a positive impact on families.